

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

KOKAYI SIMMONS,)
Petitioner,)
v.) No. 4:21-CV-729 AGF
UNITED STATES OF AMERICA,)
Respondent.)

MEMORANDUM AND ORDER

As stated in the Court’s Order opening this new civil action under 28 U.S.C. § 2255, the Court will require petitioner to file an amended motion to vacate upon a court-provided form. *See* ECF No. 1. Because this will be petitioner’s first-filed motion to vacate, brought pursuant to 28 U.S.C. § 2255, the Court will provide petitioner the opportunity at that time to withdraw his motion to vacate or include within his amended motion to vacate all of the § 2255 claims he believes he has. *See Morales v. United States*, 304 F.3d 764, 767 (8th Cir. 2002). As such, the Clerk of Court will be directed to send petitioner the Court form for § 2255 motions and petitioner will have thirty (30) days to file an amended motion on such form.

Accordingly,

IT IS HEREBY ORDERED that the Clerk is directed to mail to petitioner a copy of the Court's form "Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a person in federal custody."

IT IS FURTHER ORDERED that, within **thirty (30) days** of the date of this Order, petitioner shall either file an amended motion on the Court-provided form with all of the claims he wishes to bring, or he shall withdraw his motion to vacate.

IT IS FINALLY ORDERED that if petitioner fails to comply with this Order, the Court will assume petitioner wishes to withdraw his motion to vacate and this action will be dismissed without prejudice.

Dated this 25th day of June, 2021.

Audrey G. Fleissig
AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE